

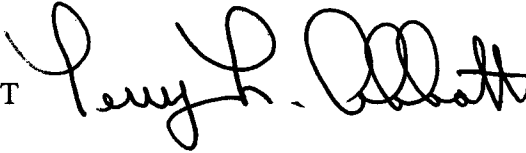
## Memorandum

*Flex your power!  
Be energy efficient!*

To: DISTRICT LOCAL ASSISTANCE ENGINEERS

Date: May 16, 2003

From: TERRY L. ABBOTT  
Chief  
Division of Local Assistance



File: Environmental

Subject: National Environmental Policy Act Compliance Required Prior to Final Design

The purpose of this memo is to reiterate the requirement that National Environmental Policy Act (NEPA) compliance is required prior to final design. Please pass this information on to the local agencies in your district.

In an effort to avoid a conflict with federal regulations, eliminate the risk of federal ineligibility, and help ensure timely project delivery, it is imperative that compliance with NEPA be completed and approved prior to the local agency beginning final design. This applies to all federal-aid projects regardless of whether the Preliminary Engineering phase is partially funded with federal-aid funds or entirely funded with local agency funds. Though not explicitly defined in the federal regulations, preliminary and final designs are defined below based upon purpose.

### Preliminary Design

Preliminary design entails all necessary design work including environmental studies, related engineering studies, agency coordination, and public involvement needed to complete the environmental document or to comply with other environmental laws during the NEPA process.

### Final Design

Final design entails the design necessary to complete the plans, specifications, estimates (PS&E) and other work necessary for the construction contract but not required earlier for NEPA. This would include the incorporation of mitigation measures presented as commitments in environmental documents (CE, EA, and EIS) and the conditions and restrictions associated with regulatory permits.

Final design may not proceed until final environmental approval, i.e., the Programmatic Categorical Exclusion has been signed by Caltrans or FHWA has signed either the Categorical Exclusion, Finding of No Significant Impact, or Record of Decision. Proceeding with final design prior to final environmental approval would be a premature commitment to one

alternative at a time when other alternatives, including the alternative of taking no action, are still being actively considered in the environmental process.

To help avoid this issue or other procedural issues, please encourage your local agencies to develop work plans for all local assistance projects. The Local Assistance web site has three sample work plans that incorporate NEPA compliance prior to final design. The work plans are for STIP projects with and without federal-aid funds and non-STIP projects with federal-aid funds. They can be found at:

Work Plans on the Division of Local Assistance web site  
<http://www.dot.ca.gov/hq/LocalPrograms/>

Additional information regarding the relationship between NEPA approval and final design can be found in the following references:

23 Code of Federal Regulations, Part 771.113(a), Environmental Impact and Related Procedures, Timing of Administration Activities  
[http://www.access.gpo.gov/nara/cfr/waisidx\\_02/23cfr771\\_02.html](http://www.access.gpo.gov/nara/cfr/waisidx_02/23cfr771_02.html)

Local Assistance Procedures Manual, Chapter 6, Environmental Procedures  
[http://www.dot.ca.gov/hq/LocalPrograms/lam/prog\\_p/p06envrp.pdf](http://www.dot.ca.gov/hq/LocalPrograms/lam/prog_p/p06envrp.pdf)

Local Assistance Procedures Manual, Chapter 12, Plans, Specifications and Estimates  
[http://www.dot.ca.gov/hq/LocalPrograms/lam/prog\\_p/p12psnes.pdf](http://www.dot.ca.gov/hq/LocalPrograms/lam/prog_p/p12psnes.pdf)

c: Deputy District Directors for Local Assistance